

**Initial Statement of Reasons**  
**Adoption of Proposed Amendments to**  
**California Code of Regulations, Title 18, Section 1618,**  
***United States Government Supply Contracts***

**SPECIFIC PURPOSE AND NECESSITY**

Prior Law

Revenue and Taxation Code (RTC) section 167, subdivision (a), establishes a rebuttable presumption regarding the burden of proof in county board of equalization (county board) hearings on property tax applications regarding owner-occupied single-family dwellings. RTC section 167, subdivision (a) provides that “Notwithstanding any other provision of law to the contrary, and except as provided in subdivision (b), there shall be a rebuttable presumption affecting the burden of proof in favor of the taxpayer or assessee who has supplied all information as required by law to the assessor in any administrative hearing involving the imposition of a tax on an owner-occupied single-family dwelling, the assessment of an owner-occupied single-family dwelling pursuant to this division, or the appeal of an escape assessment.”

California Code of Regulations, title 18, section (Property Tax Rule) 313, *Hearing Procedure*, prescribes the procedures county boards must follow when conducting hearings on property tax applications. Property Tax Rule 313, subdivision (c)(2), incorporates the rebuttable presumption in RTC section 167 and provides, in relevant part, that “The board shall not require the applicant to present evidence first when the hearing involves: . . . (2) The assessment of an owner-occupied single-family dwelling or the appeal of an escape assessment, and the applicant has filed an application that provides all of the information required in regulation 305(c) of this subchapter and has supplied all information as required by law to the assessor. In those instances, the chair shall require the assessor to present his or her case to the board first.”

In addition, Property Tax Rule 321, *Burden of Proof*, prescribes the burden of proof in county boards’ hearings regarding property tax applications. Property Tax Rule 321, subdivision (d), also incorporates the rebuttable presumption in RTC section 167 and provides that “in any hearing involving the assessment of an owner-occupied single-family dwelling . . . the presumption in section 167 of the Revenue and Taxation Code affecting the burden of proof in favor of the applicant who has supplied all information to the assessor as required by law imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.”

Amendments Made by AB 711

Assembly Bill No. (AB) 711 (Stats. 2011, ch. 220) added subdivision (c) to RTC section 167 to define the term “owner-occupied single-family dwelling” as used in the rebuttable presumption. New subdivision (c) provides that:

For the purposes of this section, an owner-occupied single-family dwelling means a single-family dwelling that satisfies both of the following:

- (1) The dwelling is the owner's principal place of residence.
- (2) The dwelling qualifies for a homeowners' property tax exemption.

#### Specific Purpose, Necessity, and Benefits of the Proposed Amendments

Board staff initiated a project to solve the problem of how to best amend Property Tax Rules 313 and 321 to incorporate the definition of owner-occupied single-family dwelling added to RTC section 167, subdivision (c), by AB 711, and thereby make the rules consistent with the new subdivision. As a result, Board staff issued Letter to Assessors No. (LTA) 2012/007 on January 30, 2012, which recommended amending Property Tax Rule 313, subdivision (c)(2), and Property Tax Rule 321, subdivision (d), to add the following sentence, and solicited comments regarding the recommendation from county assessors, county boards, and other interested parties:

An owner-occupied single-family dwelling means a single-family dwelling that is the owner's principal place of residence and qualifies for a homeowners' property tax exemption.

Board staff received one comment in response to LTA 2012/007. The comment explained that real property that is the owner's principal residence and qualifies for the \$100,000 disabled veterans' exemption provided by RTC section 205.5 also qualifies for the \$7,000 homeowners' property tax exemption provided by RTC section 218, even though taxpayers that are eligible for both exemptions choose to claim the larger disabled veterans' exemption, and that such property is therefore subject to the rebuttable presumption in RTC section 167, subdivision (a). The comment also recommended adding a sentence to the proposed amendments to both Property Tax Rules 313 and 321 to clarify that property that qualifies for a homeowners' property tax exemption includes property that is the principal place of residence of its owner and qualifies for the disabled veterans' exemption provided by RTC section 205.5.

Board staff agreed with the above comment because RTC section 218, subdivision (b)(1), expressly provides that the homeowners' property tax exemption does not “apply to property on which the owner receives the veterans' exemption” specified by RTC section 205, but RTC section 218 does not contain similar language providing that property on which the owner receives the disabled veterans' exemption provided by RTC section 205.5 cannot qualify for the homeowners' property tax exemption. Subsequently, Board staff prepared Formal Issue Paper 12-004 and submitted it to the Board for consideration at its May 30, 2012, Property Tax Committee meeting. The issue paper recommended that the Board add references to RTC sections 205.5 and 218, which respectively prescribe the disabled veterans exemption and homeowners' property tax exemption, to the reference notes to Property Tax Rules 313 and 321, and add the following two

sentences to Property Tax Rule 313, subdivision (c)(2), and Property Tax Rule 321, subdivision (d), to incorporate and clarify the definition of owner-occupied single-family dwelling added to RTC section 167, subdivision (c), by AB 711:

An owner-occupied single-family dwelling means a single-family dwelling that is the owner's principal place of residence and qualifies for a homeowners' property tax exemption pursuant to Revenue and Taxation Code section 218. "Property that qualifies for a homeowners' property tax exemption" also includes property that is the principal place of residence of its owner and qualifies for the disabled veterans' exemption provided by Revenue and Taxation Code section 205.5.

During its May 30, 2012, Property Tax Committee meeting, the Board determined that staff's recommended amendments are reasonably necessary to carry out the specific purpose and address the problem for which they are proposed, namely making Property Tax Rules 313 and 321 consistent with the provisions of RTC section 167, subdivision (c), as added by AB 711, and further clarifying the meaning of the phrase "qualifies for a homeowners' property tax exemption," as used in RTC section 167, subdivision (c), as added by AB 711. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The proposed amendments are anticipated to provide the following specific benefits:

- Make Property Tax Rules 312 and 321 consistent with the provisions of RTC section 167, subdivision (c), as added by AB 711; and
- Clarify the meaning of the phrase "qualifies for a homeowners' property tax exemption," as used in RTC section 167, subdivision (c), as added by AB 711.

The proposed amendments to Property Tax Rules 313 and 321 were not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Property Tax Rules 313 and 321.

#### DOCUMENTS RELIED UPON

The Board relied upon Formal Issue Paper 12-004, the attachments to the formal issue paper, and the comments made during the Board's discussion of the formal issue paper during its May 30, 2012, Property Tax Committee meeting in deciding to propose the amendments to Property Tax Rules 313 and 321 described above.

#### ALTERNATIVES CONSIDERED

The Board considered whether to begin the formal rulemaking process to adopt the proposed amendments to Property Tax Rules 313 and 321 at this time or, alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the proposed amendments at this time because the Board determined that the amendments are reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the proposed amendments to Property Tax Rules 313 and 321 that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purposes of the proposed action. No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2,  
SUBDIVISION (b)(6) AND ECONOMIC IMPACT ANALYSIS REQUIRED BY  
GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

RTC section 167 establishes a rebuttable presumption regarding the burden of proof in county board hearings on property tax applications regarding owner-occupied single-family dwellings. AB 711 defined the term "owner-occupied single-family dwelling," as used in the rebuttable presumption, to mean a single-family dwelling that is the owner's principal place of residence and qualifies for the homeowners' property tax exemption provided by RTC section 218. In addition, the Board determined that property that qualifies for the homeowners' property tax exemption includes property that is the principal place of residence of its owner and qualifies for the disabled veterans' exemption provided by RTC section 205.5.

The proposed amendments to Property Tax Rules 313 and 321 add two sentences to Property Tax Rule 313, subdivision (c)(2), and Property Tax Rule 321, subdivision (d), to:

- Incorporate the express definition of owner-occupied single-family dwelling added to RTC section 167, subdivision (c), by AB 711; and
- Clarify that property that qualifies for the homeowners' property tax exemption provided by RTC section 218 includes property that is the principal place of residence of its owner and qualifies for the disabled veterans' exemption provided by RTC section 205.5.

The proposed amendments also add references to RTC sections 205.5 and 218, which respectively prescribe the disabled veterans exemption and homeowners' property tax exemption, to both rules' reference notes.

The proposed amendments make Property Tax Rules 313 and 321 consistent with the amendments made to RTC section 167 by AB 711. The proposed amendments to Property Tax Rules 313 and 321 also clarify the amendments made to RTC section 167 by AB 711 by explaining that property that qualifies for the homeowners' property tax exemption provided by RTC section 218 includes property that is the principal place of

residence of its owner and qualifies for the disabled veterans' exemption provided by RTC section 205.5, as suggested in the one comment Board staff received in response to LTA 2012/007. The proposed amendments do not make any other changes to either rule. Therefore, the Board has determined that the adoption of the proposed amendments to Property Tax Rules 313 and 321 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

Furthermore, Property Tax Rules 313 and 321 do not regulate the health and welfare of California residents, worker safety, or the state's environment. Therefore, the Board has also determined that the adoption of the proposed amendments to Property Tax Rules 313 and 321 will not affect the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the proposed amendments to Property Tax Rules 313 and 321 will not have a significant adverse economic impact on business.

The proposed amendments may affect small business.